



2013

Wisconsin Regulatory Review Report



A Report to
Governor Scott Walker



January 2013

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The Department of Natural Resources

The Office of the Commissioner of Insurance

The Department of Revenue

The Department of Safety and Professional Services

The Department of Transportation

The Department of Workforce Development

The Department of Veterans Affairs

The Public Service Commission

Wisconsin Emergency Management

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Executive Summary

“Giving small business owners a seat at the table when discussing state regulations will help get buy-in for rules and regulations from employers, assist state agencies in promulgating rules that are realistic, and ultimately grow jobs in Wisconsin.”

*– Governor Scott Walker on
E.O. #61*

Executive Summary

On February 22, 2012, Governor Walker signed Executive Order #61, which requires state agencies to work with the Small Business Regulatory Review Board (the Board) to identify rules hindering economic growth. The Board, revived and reformed by 2011 Act 46, makes various recommendations to agencies, the Legislature, and the Governor on behalf of small

businesses owners in Wisconsin. It consists of seven small business owners as well as Senate and Assembly Chairs of committees related to business or job creation. Act 46 requires agencies to work directly with the Board when promulgating rules that affect small businesses.



Governor Walker's regulatory review revealed that Wisconsin has taken many steps in the right direction to decrease unnecessary regulatory burdens that hinder job creation and growth. However, there is always room for improvement. The results of this review continue moving Wisconsin towards becoming one of the best states for business.

This review is part of broader reforms designed to reduce the regulatory burden on our employers. According to the Small Business Administration, regulation adds thousands of dollars in employer cost per worker and regulation is 80% more costly to small employers than large. In Wisconsin, there are over 100,000 establishments with fewer than 20 employees.¹

Agency Rules Review

As a result of Governor Walker's rules-review request agencies have suggested a substantial number of administrative code changes which both clean up the code and reduce the burden on small businesses. In total 218 rule chapters are recommended with 307 modifications. This includes 40 that are recommended for complete repeal.

The process undertaken by each agency was no simple feat. For example, the Wisconsin DNR sorted through over 3,700 pages of its administrative code and ultimately recommended 39 total modifications, 19 of which repeals entire chapters.

The review process also resulted in agencies codifying regulatory flexibility for small employers that act in "good faith" to comply with administrative code. This is a requirement of 2011 Act 46.

"Be more responsive, understand the rules/laws, and be more forgiving of minor infractions."

NFIB Member and Survey Responder



Business Survey

A part of this review was a survey of Wisconsin employers. Thousands of employers were contacted through 43 trade associations. Roughly half of responding employers have between 2 and 25 employees. 72% said regulations cost more than the benefits they produce. 70% said regulation imposes a significant cost on their businesses.

Legislative Rule Package

Each of these recommended rule changes must go through the rulemaking process in order to be modified or repealed. This process can be quite lengthy so one option to expedite these changes is for the Legislature to adopt legislation that bundles these rule changes into one package. Then, all of the changes and repeals can occur without a lengthy rule-making process. For example, Minnesota's statutes require agencies to annually review their rules for obsolete, superseded or unnecessary rules. These rules are then bundled into a bill for legislative consideration on the rules identified.²

¹ National Federation of Independent Business Memo using U.S. Census Bureau Data

² MINN. STAT. 14.05 (2012)

Statutory Changes

Suggested statutory changes arose during the completion of this report as a result of agency rules review and public input. Highlights of recommended statutory changes include the following:

2011 Wisconsin Act 21 Enhancement

Throughout this rules review process agencies had helpful insight regarding ways to improve the rulemaking process in Wisconsin. As a result, the Governor's Office sought input from agencies and stakeholders on how the rulemaking process could be improved. Some suggestions included creating an off-ramp for the repeal of obsolete rules, sunset periods for guidance documents, and more transparency of guidance documents.

Unemployment Insurance

It became apparent that one of the largest concerns of employers was reforming the administration of Unemployment Insurance (UI). One in eight survey responders for this report mentioned UI as a concern. Many stakeholders were concerned with the complexity and unfairness of the law as it pertains to employers. Based on this widespread criticism of the current system changes were suggested to the Board. The Department of Workforce Development (DWD) suggested improvements to the administration of UI law as a part of its review. DWD also testified before the Board regarding its UI policy recommendations given to the Unemployment Insurance Advisory Council (UIAC).

Employer's UI Handbook

One widespread complaint of employers regarded the ambiguity of the Unemployment Insurance hearing process. It is typically not until the day of the unemployment hearing that employers are made aware of all of the necessary evidence and procedure required. This makes it difficult for small employers to adequately prepare themselves for these legal proceedings. It has become all too common that an employer hire a lawyer, which can be incredibly costly.

Giving the employer a manual that highlights all of the required materials and outlines the unemployment insurance hearing procedures ensures that there will be no surprises should that hearing become necessary.

Sales Tax Filing

"The Department of Revenue recently changed my reporting requirement for several taxes from monthly to quarterly, since I had frequent months with zero taxes owed. I appreciate it -- it made my life simpler."

Member of Wisconsin Veterinary Association

As a result of public input resulting from this review the Department of Revenue included in its 2013-15 budget submission a recommended change to sales tax filing frequencies. Current thresholds used to determine the frequency of filing have not been updated for decades. The threshold changes for filing frequency benefit small, start-up ventures by reducing administrative costs for start-ups, enabling them to focus on growing their business. An estimated 25,439

retailers would file sales tax less frequently. 13,510 filers would file quarterly instead of monthly and 11,929 would file annually instead of quarterly.



Organizational Changes

While the stated goal of the Governor's agency rule review was to look for potential rule changes, agencies were encouraged to think outside the box when it comes to improvements. Agencies were encouraged to research the feasibility of a one-stop business registration portal as well as make agency specific organizational changes to increase agency efficiency.

Wisconsin's One-Stop Business Portal

A "Wisconsin One-Stop Business Portal" would provide a faster, simpler, less bureaucratic and more friendly process for the registration of new businesses in the state of Wisconsin. Start-up businesses account for only 3 percent of total employment, but a recent study found they account for 20 percent of new job creation.³

Often, information required for filing or registering with one agency overlaps with the information required by another agency. "Wisconsin's One-Stop Business Portal" would consolidate this information into one online portal. With the portal in place, new business registrants need not scour numerous agency websites or fill out redundant forms.

³ *Who Creates Jobs? Small vs. Large vs. Young*, National Bureau of Economic Research, Haltiwanger, Jarmin, Miranda, August 2010



2011 Wisconsin Act 21 Enhancement

“For too long the overregulation of business has stifled job growth within our state and repelled job creators from others. The common sense reforms contained in our proposal will take the power of regulating away from unelected bureaucrats and put it back where it belongs—in the hands of the people. I believe the Legislature should exclusively have the power to create laws.

I am hopeful that moving forward the bureaucracy will only implement rules and regulations passed by the Legislature and approved by the governor.”

*- Governor Scott Walker,
December 21, 2010*

2011 Wisconsin Act 21

In 2011, Governor Walker transformed Wisconsin's rulemaking process by signing Act 21 into law. Prior to Act 21, the rulemaking process had more limited opportunities for public input, less agency accountability and less concern with the rules' impact on the business community.⁴ Act 21 gives the Governor oversight in the drafting of scope statements and approval again when the final rule is drafted.⁵ Furthermore, Act 21 and Executive Order #50 require agencies to perform a cost-benefit analysis of the rule in coordination with local units of government and the private sector.

The Creation of the Act 21 Task Force

Act 21 has been very successful in keeping the rulemaking process transparent and rigorous. It is necessarily stringent to ensure new rules that have a large impact on the regulated community are necessary and in the best interest of the state. It establishes balance between the Governor, the agencies and the Legislature. Based on input by the regulators and the regulated, in 2012, the Governor's Office created the Act 21 Task Force to not only strengthen the process, but also streamline it by taking a common sense approach to the realities of rulemaking. Below are some suggested improvements resulting from the Act 21 Task Force.

Act 21 Task Force Recommendations

Streamlining the Process for Cleaning Up the Wisconsin Administrative Code

One concern with the current rulemaking process is that repealing, amending or revising existing rules can



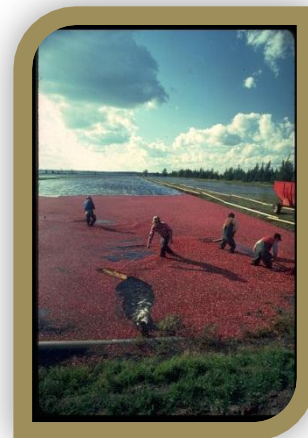
⁴ Wis. Stat. § 227.10, et. seq. (2009)

⁵ 2011 Wisconsin Act 21

be a burdensome and lengthy process. This is the case even if the Legislature has mandated a particular rule be promulgated by statute or a new federal standard. Act 21 was designed to be rigorous when new rules are promulgated. However, it was not implemented to inhibit improvements and cleanup of the current administrative code.

The Act 21 Task Force recommends the creation of an expedited process for rule repeals, revisions, and amendments that comply strictly with state or federal statute or are simply clean-up of current administrative code. This could be accomplished by a Governor's waiver.

In order to expedite this process, rules that either incorporate by reference federal requirements for federally delegated programs or those that have language that is essentially the same as federal or statutory requirements would constitute a third category of rules that are exempt from certain requirements implemented by Act 21. Chapter 227 would incorporate an "off-ramp" for this third category of rules.



Alter the Process for Modified Scope Statements

Currently, if a rule is moving through the approval process and the agency alters the scope statement in any "meaningful or measureable way" a new scope statement must be drafted and sent back to the Governor for approval.⁶ Essentially, an agency must start from square one. This safeguard is important in that it ensures agencies draft informative and specific scope statements. This provision also keeps the agency from promulgating a rule that is significantly different from its original scope statement.

⁶ Wis. Stat. § 227.135(4)

However, this step can hinder the flexibility of an agency to respond to public input. It is not unusual that when a rule is proposed to the public that members of public have insightful suggestions that often strengthen the intent of the rule and at the same time making it less burdensome on the regulated. It is important that agencies are able to take these suggestions to improve the proposed rule but not required to start from scratch on that particular rule.

As a result, the Act 21 Task Force recommends eliminating the need for an agency to go back to the Governor to approve a revised scope statement under certain conditions. The Task Force recommends altering the statutory language “meaningful or measurable” to “inconsistent with the original scope.” A scope modification of the rule would be passed to the Governor’s Office for passive review. If it is inconsistent with the original scope, then a revised scope statement would have to be submitted for approval. Under this proposal, the original intent of this approval process would remain strong, but would no longer hinder the agency’s flexibility to improve rules based on public input.



Keep Rulemaking out of Guidance Documents

There is a growing concern that agencies are avoiding the stringent Chapter 227 rulemaking process by inserting what are essentially rules into guidance documents. Guidance documents are not legally binding and therefore fall outside the scope of Chapter 227.⁷ An agency cannot label what is actually a rule as guidance in order to bypass the formal rulemaking process. For example, some agencies have inserted

generally applicable permit requirements into guidance documents. These generally applicable permit requirements have the effect of law and should be subject to the formal rulemaking process.

One possible solution is requiring that agencies publish all standard permits, guidance documents, and related materials for 30 days on their website. This way



the public can give agencies feedback prior to their issuance. This transparency provides a check on the agency’s ability to place legally binding rules in guidance documents not subject to the formal rulemaking process. Additionally, placing a sunset period on guidance documents would require agencies to promulgate a rule if they wish to make certain information in guidance documents permanent.

⁷ Wis. Stat. § 227.01(13)(a), et. seq.

Allow Standing Committees and the Joint Committee on Review of Administrative Rules Review Rules Concurrently.

Currently, a rule is submitted to a standing committee prior to its submittal to the Joint Committed on Review of Administration Rules (JCRAR).⁸ The standing committee has 30 days to review the rule.⁹ Following the review by the standing committee, the rule is referred to JCRAR. Then JCRAR has an additional 30 days to review the proposed rule. The 30-day reviews could be extended even further depending on agency or committee actions during the review period. This review time could be viewed as unnecessarily lengthy. Regardless of standing committee action or inaction, JCRAR's review period is added to the time taken to finalize a proposed rule.

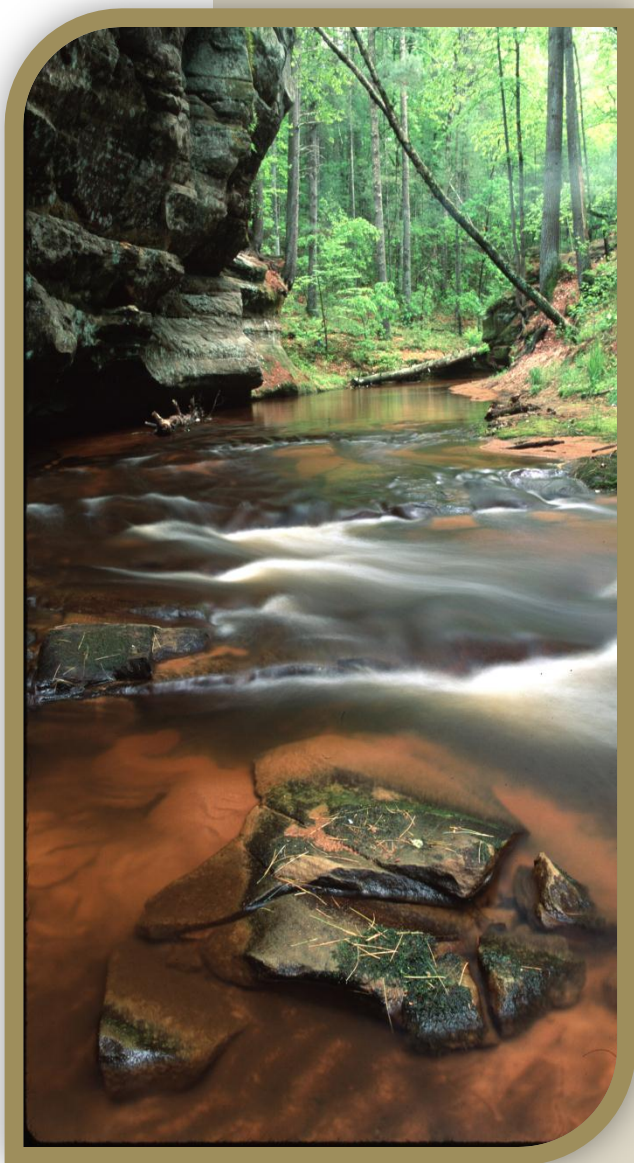
The task force recommends amending the statute so that JCRAR can review the proposed rule concurrently with any standing committee reviewing the rule. Both committees could continue to take action on a proposed rule or defer to JCRAR where a proposed rule in need of changes would end up regardless of standing committee action or inaction. This change would continue strong legislative review that is a necessary oversight function.

Other Suggestions

1. Allow for electronic publication of rules
2. Remove the requirement that rules be sent by registered mail and instead allow for certified mail
3. Require that guidance documents all have sunset periods so that agencies must update the documents for clarity on a regular basis

⁸ Wis. Stat. § 227.137(4)

⁹ Wis. Stat. § 227.19(5)(b)(1)





Agency Rules Review

“I am encouraged by the direction the state is heading in supporting its businesses. This survey itself is a good example.”

— Member of Metropolitan Milwaukee Association of Commerce

Agency Rules Review

Executive Order #61 along with 2011 Wisconsin Act 46 required agencies to complete a rigorous review of their existing administrative rules. To begin the review, the Governor's staff reviewed administrative code to identify citations and references that were no longer valid. This resulted in 245 suggested modifications being sent to state agencies to assist with their reviews.

Typically, agencies reviewed their rules in two different phases. Phase 1 of the rules review consisted of identifying existing rules for deletion or modification that were obsolete, in contradiction with state statute or court rulings, were outdated, or unclear. This phase was viewed as code "clean up" and its purpose was to ensure the code as written is the most updated version of the law. This "clean up" helps streamline the code and makes reading administrative rules less confusing for the regulated community.



Phase 2 of the report served as a more in-depth review of rules that either directly or incidentally impact small businesses. The purpose of Phase 2 was to take a closer look at those rules that may be unnecessarily burdensome on small business and suggest modifications or repeals of those particular rules.

The agencies compiled these reports and submitted them to the Small Business Regulatory Review Board for review. The Board review included the option to question agencies. In some instances, hearings were held to do so.

The Phase 2 reviews are ongoing in some cases. Agencies will continue to work with the Board to identify rules for review in an effort to reduce the regulatory burden on our small employers.

Agency Acronym Guide

DOA
Department of Administration
DATCP
Department of Agriculture, Trade, and Consumer Protection
DCF
Department of Children and Families
DHS
Department of Health Services
DFI
Department of Financial Institutions
DNR
Department of Natural Resources
OCI
Office of the Commissioner of Insurance
DOR
Department of Revenue
DSPS
Department of Safety and Professional Services
DOT
Department of Transportation
DWD
Department of Workforce Development
DVA
Department of Veterans Affairs
PSC
Public Service Commission
WEM
Wisconsin Emergency Management

Rules Review Results by Agency and Purpose

The Wisconsin Administrative Code consists of well over one thousand Chapters, e.g., ATCP 110. Each chapter is comprised of sections, e.g., ATCP 110(1)(b). The number of sections in each chapter depends on the specific rule, its length and depth. Agencies looked at each section of relevant chapters. Agencies made recommended changes either through repeal of entire chapters, or modifications to chapter sections.

In addition to each agency review its own rules, the Governor's staff conducted a random sample of 500 Rule Chapters from all of the rule chapters existing in Wisconsin. These 500 randomly selected rule chapters were reviewed to determine the number of rules that affected the business community. The rules were randomly selected so that generalizations could be made regarding the administrative code as a whole.

Additionally, the Governor's Office reviewed each randomly selected chapter to analyze the agency's regulatory flexibility analysis as required by 1983 Wisconsin Act 90. Of the 500 rules reviewed, nearly all rules promulgated after the adoption of Act 90 complied with the law. However, only a handful of rules were determined to have a significant impact on a substantial number of small businesses. The majority of rules determined to have an impact on small business did not include any regulatory flexibility analysis because the agency determined that while there was an impact, it was not substantial enough to warrant an analysis. It is evident that the agencies rely heavily on public input during public hearings in the rulemaking process.

In total, 218 of Wisconsin's Administrative Rule Chapters were recommended for modification by agencies. Agencies recommended a total of 307 modifications to rule sections, with 40 full repeals. Tables 1, 2 and 3 list the number of chapters modified, the number of actual modifications, the total full repeals, and reasons for the recommended modifications. It is important to note that based on statutory mandate, some agencies work more closely with businesses than other agencies. For example, the Department of Safety and Professional Services identified 53 potential changes while the Department of Veteran Affairs identified seven. This discrepancy between the rule modifications does not reflect any level of effort; rather, DSPS directly regulates businesses, and DVA does not, per Wisconsin Statutes.

Table 1 provides a complete breakdown by state agency of recommended rule changes. In total, 218 rule chapters were affected, 307 modifications were recommended, 40 were recommended for repeal entirely, and two rules specifically mentioned by survey respondents were recommended for modification. The first column refers to the number of rule chapters of each agency which were reviewed independently by the Governor's Office.

Table 1: Summary of Recommended Rule Changes Made as a Result of Governor Walker's Rule Request

Agency	Governor's Office Review	Total Rule Chapters Modified	Total Section Modifications	Full Chapter Repeals	Survey Solicited Rules
DOA	1	2	2	2	0
DATCP	10	9	9	4	1
DCF	2	15	15	0	0
DFI	17	11	14	4	0
DHS	25	9	9	0	0
DNR	80	38	39	19	0
OCI	43	9	18	0	0
PSC	12	16	16	0	0
DOR	16	14	61	0	1
DSPS	2	53	58	0	0
DOT	17	26	44	5	0
DVA	9	7	13	0	0
WEM	1	3	3	0	0
DWD	10	6	6	6	0
Total	245	218	307	40	2

As a part of its report, each agency gave justifications for the modification or repeal of each rule chapter or section. Based on these justifications, each rule change was categorized. Some rules had multiple justifications, some justifications were given for multiple sections in a chapter, and some justifications applied to a repeal of an entire chapter. This is why the total number of rule changes in Table 2 (on the following page), does not equal the total modifications in Table 1.

Table 2: Types of Changes Made

Reason for Revisions	Rule Changes
Allows Online Filing	6
Improves Agency Efficiency	7
Harmonizes with Federal Standard	12
Harmonizes with Statute	49
Makes Consistent with Current Practice	15
Obsolete	96
Promotes Clarity	58
Reduces Burden on Business	25
Superseded	20
Typographical Error	7
Creates Flexibility	4

Of the many modifications, agencies had noteworthy recommended changes. These are highlighted below:

DOA

As a result of DOA's rules review, the agency suggested the repeal of Adm 85 regulating the Rural Hospital Loan Guarantee Program. This program is not needed and has never been used since its creation in 1992.

DATCP

*"It is impossible to be in compliance with ATCP 110."
Homebuilder/Remodeler*

DATCP's phase I rule review suggestions cover nine administrative code chapters and one statute. Perhaps most notable is the suggested changes to ATCP 110 dealing with home remodeling contractors. There are aspects of this particular rule that need updating to comport with current industry practices. These modifications will make the rule compatible with newer design build practices that have become an important feature of the home improvement industry. This rule was mentioned by numerous survey respondents as a rule in need of modification. There

are an estimated 35,715 home builders and contractors, both licensed individuals and employers.

The DATCP review also recommended updating Wisconsin statutes chapter 97 related to the food production industry. There are an estimated 33,350 employers and 134,100 employees in this regulated industry. A rewrite of this chapter would modernize it to current industry practices. Stakeholder groups are involved in the update and DATCP believes this will have a positive impact on small employers in the food industry.

DATCP's review recommended complete repeal of an ATCP 54 code chapter regarding weather modification that hasn't applied since 1977 as well as lead to the codification of regulatory flexibility for small employers with "minor violations". These changes will clean up DATCP's code and reduce confusion as well as codify procedures to reduce penalties on small businesses that act in good faith to comply with state regulations.

DCF

Nine of the rules recommended for modification by DCF cover small employers totaling 6,846. Some of the rules to be modified date back to as early as 1949. One such modification includes updating DCF 201 to conform with 2011 Act 32. This rule directly impacts small business through its regulation of child-care providers.

DFI

As a result of this rule review, DFI has recommended the repeal of DFI-Bkg 74.08 because it is obsolete. This section regulates the advertising from collection agencies to business clients for which they collect debts, not consumers. The rule prohibits the advertising of false or misleading rates by these collection agencies. DFI recommends a complete repeal of the section because there has been no issue of disclosure of any rates in advertising. In fact, these agencies tend to be very guarded about the rates they charge.

DHS

DHS is recommending modification of nine chapters including DHS Chapter 124, which establishes standards for the maintenance and operation of hospitals and other health care operations. DHS licenses 157 hospitals in Wisconsin. The total state spending to hospitals for medical assistance is \$1.67 billion. Medical assistance recipients total over 1 million. DHS 124 regulates these hospitals. It is outdated, duplicative, and confusing for health care operators because of contradictory state and federal regulations. This modernization will reduce hospital regulatory compliance costs and confusion.

DNR

DNR's rule review resulted in many suggested changes or repeals. The DNR reviewed over 3,700 pages of administrative code. Notably, the DNR has suggested the modification of NR 113 and NR 114 which apply to all small businesses servicing septage containing holding tanks and treatment systems. There are 448 septage servicing businesses and 1,124 certified operators. The purpose of this chapter is to provide requirements for disposal of larger volumes of septage. Many small businesses perform incidental services that require limited septage disposal and/or storage. Examples include restaurants and campground owners. By rule, these incidental service companies are regulated in the same manner as businesses that provide septage disposal as a mainstream activity. This means they could have to pay for training even though

they contract with private servicing companies to remove their waste.

These chapters can be modified to treat employers with incidental contact with waste containers and disposal differently than the employers that have regular contact. This will allow for an improved focus on training for the employers that specialize in this service and lift a burden from other employers with incidental contact. These rules were specifically mentioned by survey respondents.

Through the DNR's review, they also recognized numerous reporting requirements that were unneeded. For example, state acid rain limitations have largely been superseded by federal requirements however, reporting requirements of the state law still exist. Emissions do not approach state limits and these reports accomplish nothing useful. They are also a drain on state resources. The DNR receives 5 reports each year.

The DNR had some interesting comments submitted as a result of its review. They totaled 44 comments in the review. One angler suggested allowing trolling in Vilas County where only row trolling is allowed today. In his words, "Give an old guy a break." The DNR responded to him that the Fisheries Division is currently working on code updates to allow trolling statewide with some restrictions.

DNR also received comments from a well driller suggesting a combination of two similar forms relating to high-capacity wells. DNR was pleased to respond that they had combined the forms and now offer them online for convenience. For calendar year 2011 groundwater withdrawals totaled 213 billion gallons from 11,754 sources.

OCI

OCI suggested a total of 18 rule section modifications affecting 9 chapters. The agency identified several sections of its code that had needed to be updated in light of statutory repeals or enactments. OCI is currently in the process of an in depth review of its code in anticipation of changes at the federal level resulting from the Affordable Care Act.

PSC

In 2010 and 2011, the Commission received over 7,000 complaints on utility billing. The Commission's intervention in those complaints saved ratepayers close to \$380,000. Nearly 1,000 complaints arose from

disputed amounts of use, meter accuracy, estimated billing, and back-billing. As a result of this rules review process, PSC is amending its meter retention rules to require utilities to retain meters longer if a customer believes the meter is not reading accurately. The PSC expects these suggested changes will assist the Commission in resolving billing disputes, save customers money in instances where the meters are found to be inaccurate, and increase the confidence of utility ratepayers in the accuracy of their bills.

DOR

DOR put forth numerous areas of its administrative code for modification or repeal. In total, 61 modifications were included in DOR's review report. Some notable modifications include deleting the out-of-date Earned Income Tax Credit qualifications that could potentially cause confusion, updating the tax rate calculation for motor vehicle fuel, updating taxation rates for Section 9.70(3) to enhance clarity, and repealing Section 16.04(2) which had not been updated since 1985.

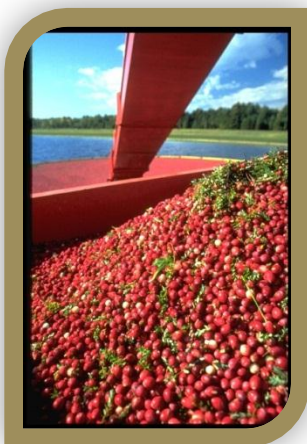
Section 16.04(2) was a holdover rule from pre-internet days. Updating this particular section ensures local governments do not have the administrative burden of submitting their own forms to qualify for local aid programs.

As a result of public input DOR included in its 2013-15 budget submission a recommended change to Sales Tax Filing Frequencies. Current thresholds used to determine the frequency of filing have not been

updated for decades. The proposed statutory changes would increase the annual threshold from \$300 to \$600, the quarterly threshold from \$301-\$2400 to \$601-\$4800 and the monthly threshold from \$2401-\$14400 to \$4801-\$14400.

These greater thresholds for filing frequency benefit small, start-up ventures by

reducing administrative costs for start-ups enabling them to focus on growing business. An estimated 25,439 retailers would file sales tax less frequently.



13,510 filers would file quarterly instead of monthly and 11,929 would file annually instead of quarterly.

DSPS

"Model everything off DSPS. The folks at DSPS have been great. I love the willingness to work with small business."

Survey Responder and Home Builder

Because of this rule review DSPS proposed modifications to SPS chapter 382. This rule requires municipalities to employ two or more full-time plumbing inspectors if they wish to take on the responsibility of being a delegated authority for the commercial plumbing plan review. Some municipalities may wish to take on this responsibility but cannot justify the hiring of two full-time plumbing inspectors. As

a result of this review, DSPS plans to modify this rule to delete the two-inspector requirement. The modified rule would simply allow municipalities to hire a DSPS approved plumbing inspector as needed and remove this unfunded mandate.

Included in its report totaling 53 total modifications DSPS highlighted another mandate that fire departments replace all rope after any use; even if it is used only one time and in safe condition. This can add hundreds if not thousands of dollars in costs to fire departments depending on their size. After reaching out to stakeholders, DSPS learned that this code is not always followed and as long as rope is inspected for safety after use, removing this mandate would be supported. DSPS recommends continuing to work with stakeholders to lift this burden, but also to maintain safety by enforcing inspections on any rope that is used and possibly reused.

As another example, DSPS highlighted chapter OPT 5.02 dealing with optometrists. As currently written, this chapter states that a lens prescription must come via "written order" and leaves no room for an electronic signature like rules pertaining to contact lens prescriptions do. The Optometry Examining Board seeks to bring the rules for lens prescriptions in line with contact lens prescriptions. There are over 1,100 licensed optometrists. With this change countless thousands of their patients – will be able to enjoy the



increased speed and accuracy of electronic prescriptions for eyeglasses.

A large number of veterinarian survey responders expressed concern with the impact changes to reporting requirements would have on their businesses. The Pharmacy Examining Board is required to create a prescription drug monitoring program per 2009 Act 362. The Board heard testimony from DSPS and veterinarians regarding the rule needed to implement Act 362 (Phar. 18). The Wisconsin Veterinary Medical Association estimates the rule will cost veterinarians millions annually in compliance costs.¹⁰ Based on the testimony the Board recommended the legislature exempt veterinarians in statute. This would have to occur via statute change, not rule change.

DOT

Among other changes in its review, DOT suggested the modification of Trans 131, regarding the Motor Vehicle Inspection and Maintenance Program. The modifications update some definitions within the chapter to ensure compliance. Currently, the rule language refers to 'registered' repair facilities; however, the appropriate language is 'recognized' facilities. This modification enhances clarity for small businesses owners.

DOT also recommends updating Trans 138 and 142 to eliminate unnecessary paperwork creation and retention requirements on motor vehicle dealers and auction dealers. This information would continue to be held by the dealer in the event of it being needed. However, it would be available via electronic format, saving time and money. This covers 131 dealers in Wisconsin.

DOT's review also resulted in recommended changes to Trans 312 to exempt small haulers less than 10,000 pounds from having to stop at open weigh stations. DOT found this was an unnecessary burden on small employers and other enforcement actions exist to monitor these haulers. This change would make Wisconsin code consistent with other states and federal regulations. This would reduce confusion for these haulers traveling interstate. DOT could not put an exact estimate on the number of haulers that could benefit from this change. However, they did say the number would be significant.

¹⁰ Phar. 18 Fiscal Analysis

DVA

The agency is modifying or repealing seven chapters of code. Mostly this is to bring the code up to date with 2011 Wisconsin Act 36, which changed the makeup and authority of the Board of Veterans Affairs.

WEM

As a result of its review Wisconsin Emergency Management updated its code to bring it into compliance with online reporting requirements for businesses covered under the Emergency Planning and Community Right-to-Know Act (EPCRA). The EPCRA originally passed Congress in 1986. Wisconsin businesses will benefit from expedited reporting requirements if they are covered under EPCRA.



DWD

"DWD rules and regulations make me cautious about hiring new people. I have to realize that should that person not work out, I get penalized through unemployment fees. I need two more people, but I haven't hired anybody for those positions in more than two years."

Wisconsin Dentist

Along with many chapter repeals included in its review report, DWD is in the process of creating a model Unemployment Employer Manual to provide to employers and prepare them for unemployment insurance adjudications. Many survey respondents and stakeholders indicated a frustration with the unemployment insurance process. This manual will provide greater access to rules regarding this process and also encourages compliance.

Through its review, DWD also recognized it had many resources for employees but not for employers

on its webpage. More resources will be made available to employers so they can better comply with state employment laws. This will also hopefully reduce confusion and frustration with agency dispute adjudications.

Additionally, DWD is in the process of promulgating a new rule which enables the department to be flexible in disciplining violations by small businesses. This will put them in compliance with 2011 Act 46 and E.O. #61.

Legislative Rule Bundle

Each recommended rule must go through the rulemaking process to be modified for repealed. This process is intentionally lengthy and thorough for the promulgation of new rules. Above the recommended changes to Act 21 presented in this report, it is recommended that the Legislature introduce a bill bundling these recommended rules for repeal. Minnesota requires agencies to perform a code clean-up annually.¹¹ Each agency must scour its administrative rules and identify those which are obsolete, superseded or inconsistent. Additionally, agencies have the option of submitting these rules to the Legislature as a rule bundle bill.

¹¹ MINN. STAT. 14.05 (2012)



Stakeholder Outreach Results

“Remember that farmers work to protect the environment and that in most cases they know a lot more about environmental protection than someone working in Madison.”

– Wisconsin Farmer, Survey Responder

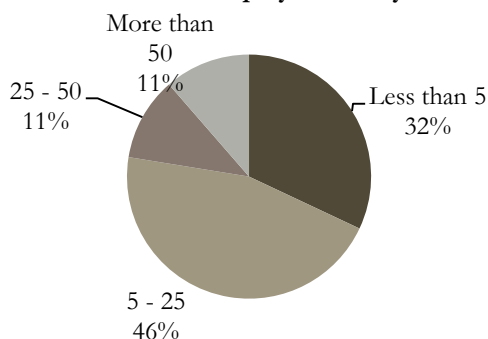
Stakeholder Outreach Results

One of the most important aspects of the Governor's regulatory review was gathering public input from those directly affected by state rules. The Governor's Office, through reaching out to 43 stakeholder associations, distributed the survey to thousands of business owners across the state.

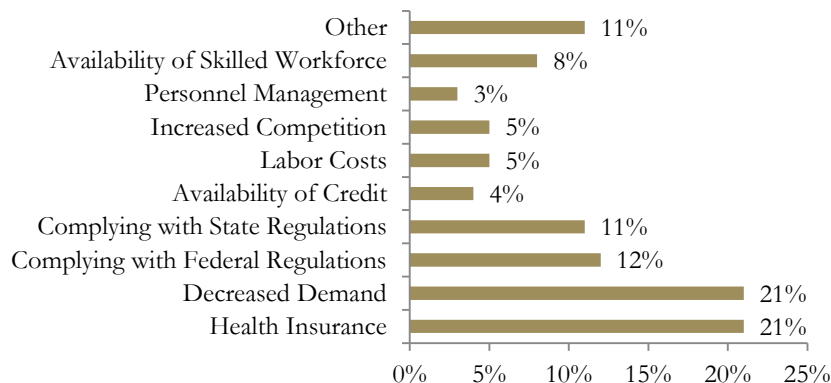
The Governor's Office asked each of these associations to forward a regulatory review survey to their members. Through this effort thousands of business owners, large and small, were contacted. The companies included restaurants, dentists, independent insurance agents, farms, construction contractors, real estate agencies, manufacturers, engineering firms, and many more. The survey, while unscientific given the self-selection of businesses, does provide important insight into a part of Wisconsin's business community directly affected by Wisconsin rulemaking.

Of the thousands of employers contacted, 597 responded with their input. Below are the results of the stakeholder outreach.

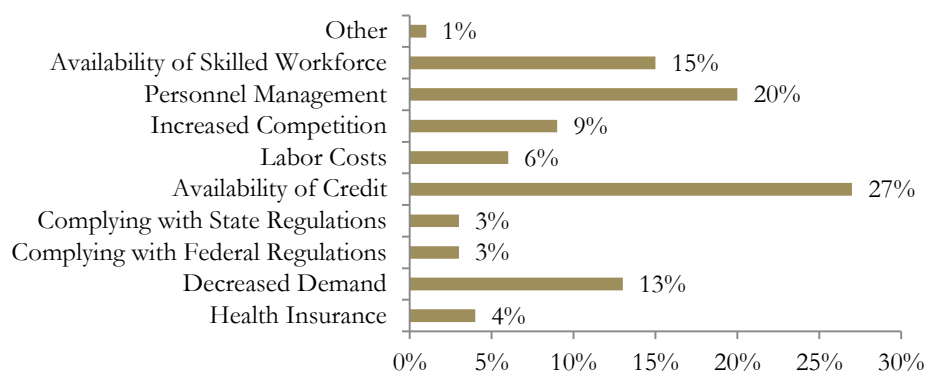
1. How many full-time Wisconsin employees does your business employ?



2. Which of the following would you say is the MOST important challenge facing your business today?



3. Which of the following would you say is the **LEAST** important challenge facing your business today?



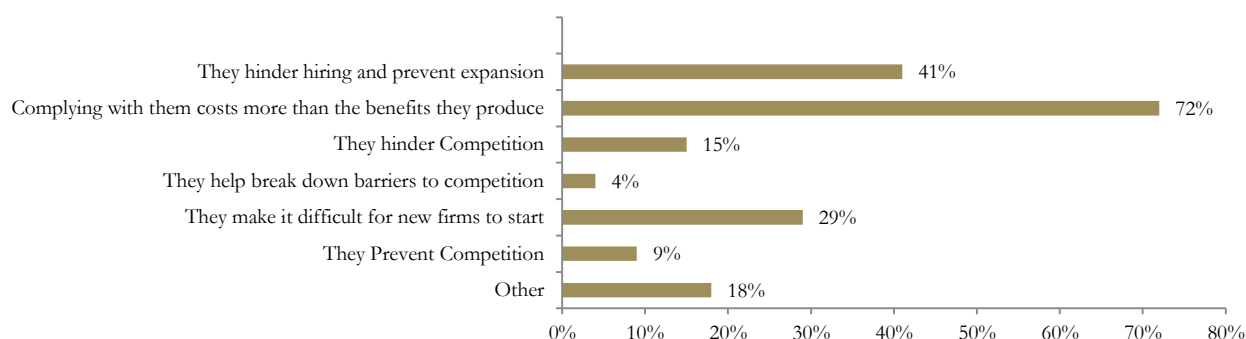
4. How much impact does each of the following areas of regulation have on your business?

	Health & Safety Rules	Employment Rules	Environmental Rules	State Business Taxes	Federal Business Taxes	State Sales Taxes	State Income Taxes	State Property Taxes	Personal Property Taxes	Local Property Taxes	Local Ordinances
A Major Impact	36%	31%	24%	43%	46%	23%	37%	40%	35%	39%	18%
A Moderate Impact	39%	43%	37%	37%	33%	34%	40%	35%	35%	33%	30%
Little Impact	23%	22%	33%	18%	32%	32%	19%	20%	25%	22%	44%
No Impact	3%	3%	7%	3%	10%	10%	4%	5%	5%	6%	7%

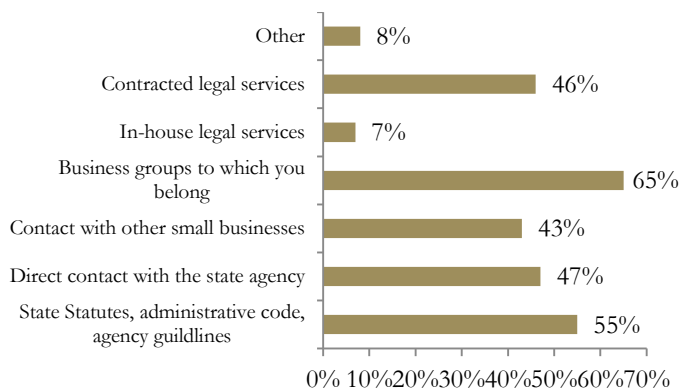
5. For those areas you rated as having a Major or Moderate Impact in the previous question, please select whether it is the actual reporting requirements or the rules, the reporting requirements, or both, that have had an impact on your business?

	Health & Safety Rules	Employment Rules	Environmental Rules	State Business Taxes	Federal Business Taxes	State Sales Taxes	State Income Taxes	State Property Taxes	Personal Property Taxes	Local Property Taxes	Local Ordinances
Actual	33%	25%	26%	30%	29%	20%	32%	42%	32%	42%	27%
Reporting	7%	10%	6%	7%	6%	8%	4%	3%	6%	3%	4%
Both	34%	39%	28%	41%	42%	34%	39%	28%	34%	25%	20%
N/A	36%	26%	40%	22%	23%	39%	25%	27%	28%	30%	50%

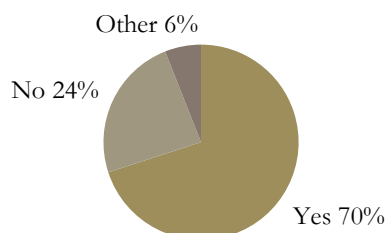
6. In general, how would you describe your attitude towards state regulations?



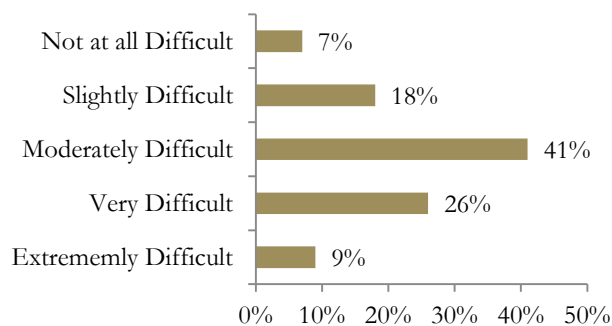
7. Which resources do you use to figure out how to comply with STATE laws/rules?



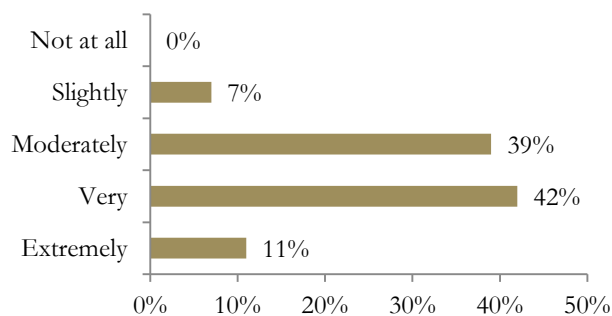
8. Does regulatory compliance impose a significant cost on your business?



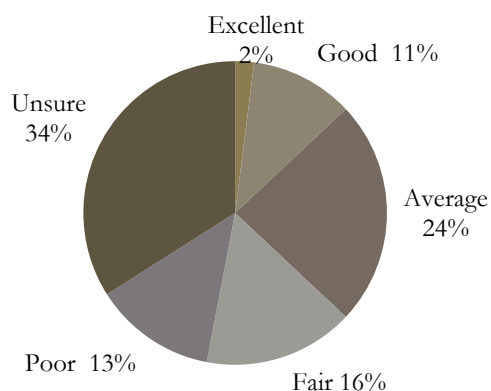
9. In your opinion, how difficult is it to comply with STATE laws/rules governing your business?



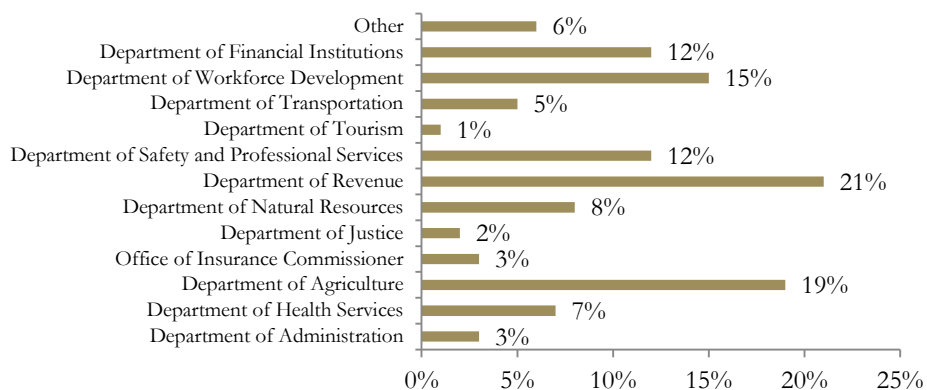
10. How familiar are you with those STATE laws/rules that affect your business?



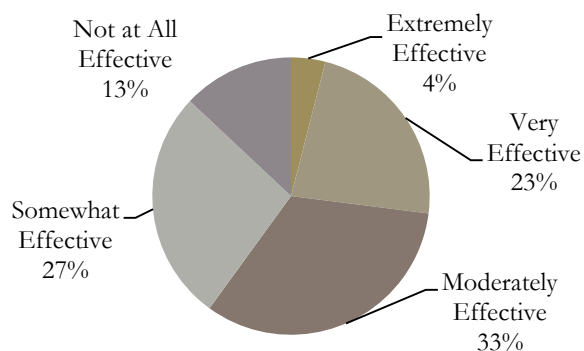
11. In comparison to other states, how would you rate Wisconsin's regulatory environment as it pertains to your business?



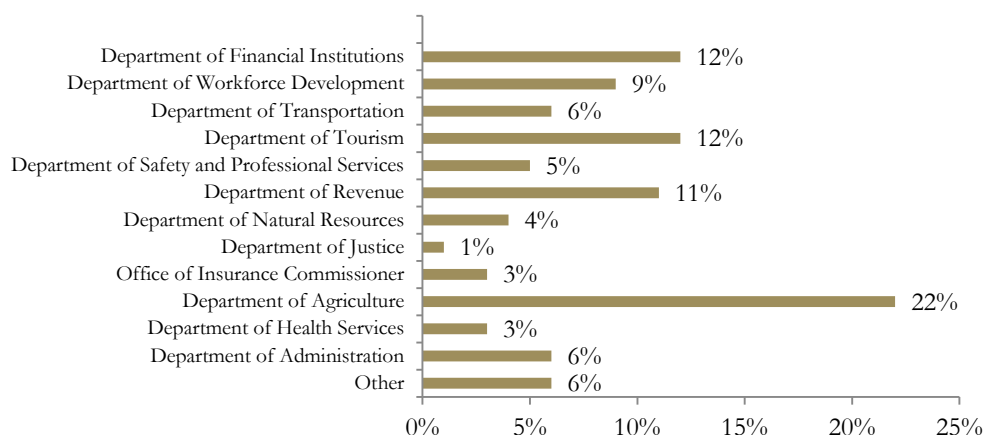
12. Which agency does your business have the most contact with on a regular basis?



13. Based on your previous answer, how effective is this agency in helping you understand rules and achieve compliance with these rules?

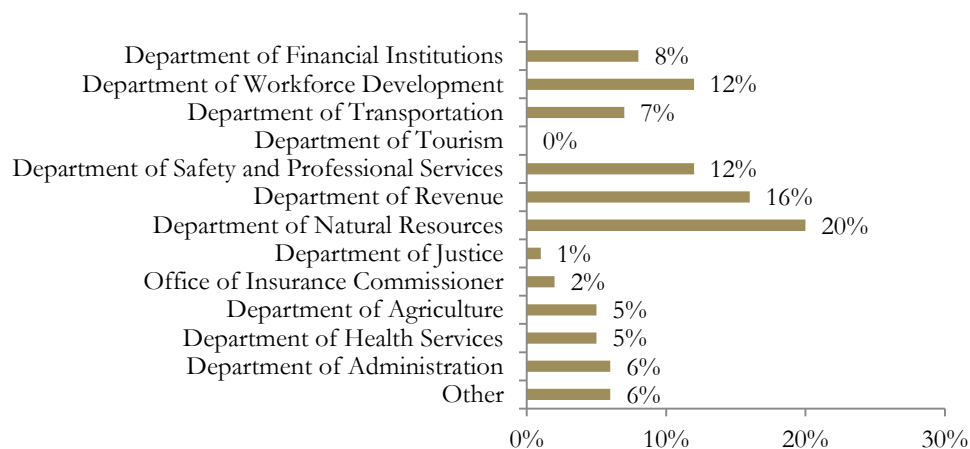


14. In your opinion, which agency is the “easiest” to work with?



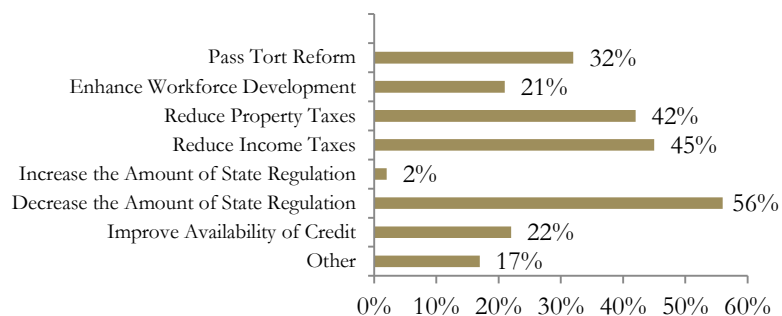
15. Question 15 was open-ended. Here, respondents indicated why the agency from Question 14 was the easiest to work with. See “Small Businesses Speak” for example responses.

16. In your opinion, which agency is the most “difficult” to work with?



17. Question 17 was open-ended. Here, respondents indicated why the agency from Question 12 is the most “difficult” to work with. See “Small Businesses Speak” for example responses.

18. What do you as an employer need state government to do to enable you to create jobs in the upcoming year?



19. Question 19 was open-ended. Here, respondents indicated what regulating agencies can do to help their business succeed. See “Small Businesses Speak” for example responses.
20. Question 20 was open-ended. Here, respondents described state rules or actions that they believed place an unnecessary burden on their business. See “Small Businesses Speak” for example responses.
21. Question 21 was open-ended. Here, respondents described state rules or actions that they believed help their business succeed and/or ease compliance. See “Small Businesses Speak” for example responses.





Small Businesses Speak

*“Lower our
taxes/expenses so we
can hire good people. Set
up basic guidelines and
then get out of the way.”*

*– Wisconsin Small Business
Owner*



"It is my observation that government usually overreacts to many situations and imposes more regulation than is needed. And, regulations tend to paint everyone with a broad brush. Therefore, punishing the good guys along with the bad guys."

"Unemployment compensation needs serious training in common sense. Had an employee who was terminated for not showing up for work for several days. He was granted unemployment benefits because he wasn't told that if he missed work he would be fired."

"DNR is definitely 'Open for Business' by working closely with us to better understand our issues and then helping to brainstorm potential solutions."

"The DOR has been doing a good job providing access and support via the web and email."

"I feel that unemployment claims are being handled solely at the discretion of the adjudicator, rather than operating under set guidelines."

Experience with Agencies

"I appreciate agency employees continuing to creatively work with their very tight budgets. You provide valuable services to those of us in business. And for you inspectors, thanks for your work, as you 'trust but [compassionately] verify'!"

"I don't have a lot of contact with the agency, but have found that when I do it is much easier lately to contact an individual and I get answers back faster than before."

Also, I've had some contact with the DSPS and DWD recently and they were very helpful and courteous."



"Give job creators certainty. Tell them what they can expect and for how long. Attempt to extend the length of how long they can expect whatever it is."

"Use common sense. Be mindful that we are small businesses that are affected by seemingly small changes in regulation, but sometimes these changes come with large financial consequences that can be crippling."

How Can Regulating Agencies Help?

"Lower out taxes/expenses so we can hire good people. Set up basic guidelines and then get out of the way."

"Policies that the state requires even for our small business. We should not have to keep the same quotoa of regs that a multi million dollar business has to."

"the way Wisconsin and Federal employment laws do not match, having to learn two sets of rules."

Unnecessarily Burdensome Rules

"Unemployment reporting laws – when we hired someone that was collecting unemployment we had forms and filing and paperwork for that person. When the employee reported falsely their income. It became our problem and required a lawyer to correct the situation."

"DWD rules and regulation make me cautious about hiring new people. I have to realize that should that person not work out, I get penalized through unemployment fees. I need two more people, but I haven't hired anybody for those positions in more than two years."

"Can't see much bureaucratic mess to deal with."

"Their website is useful and assists us without having to contact anyone."

"Staff is professional and consistent"

"You can normally reach a human on the phone."

Successful Agency Benchmarks

"We are working towards the same goals"

"Reporting criteria are clear and deadlines are consistent."

"It is not the people, but the burdensome regulations regarding getting permits for new sites, especially over a certain size, and regulations dealing with managing a site."

Difficulties with a Particular Agency

"The rules and regulation are very complicated, hard to understand and difficult to use."

"Changing interpretations of rules and general attitude about helping vs finding a way to hinder. This has gotten significantly better in the last couple fo years."

"The DWD has granted unemployment benefits for two of my former employees that were 'Terminated with Cause' due to insubordination and slander. I filed significant supporting evidence to substantiate my claims to no avail and these former employees are deliberately avoiding looking for work to remain on the 'system' as long as possible. I know this for a fact because I keep in touch with others who know these former employees and report back to me that these individuals are content to remain unemployed so long as they receive benefits. I feel that the people determining who qualifies for benefits need to use more common sense and verify that the unemployed are truly looking for work rather than living on the system."

Difficulties with a Particular Agency

"The DNR has excellent people at the top but the people in the field are ignoring their direction and running the agency without regards to changes in management. The people at the field level need to remember who they work for and if they cannot be cooperative with farmers, they should find new work."

"It is very hard to get answers to any licensing questions, almost always referred to look things up instead of getting answers."

State Rules Creating an Unnecessary Burden

"Taxes are too high. Business, Property, Tax tax tax."

"Unemployment Insurance practices that the State has conducted are unfair and directly impacts employer's unemployment insurance costs."

"Wisconsin's Prescription Drug Monitoring Rule (Phar 18) for Veterinarians"

State Actions that Benefit Your Business

"I am encouraged by the direction the state is heading in supporting its businesses. This survey itself is a good example."



Unemployment Insurance Reform

“You need to take a serious look at the unemployment group and how they look at employee terminations.”

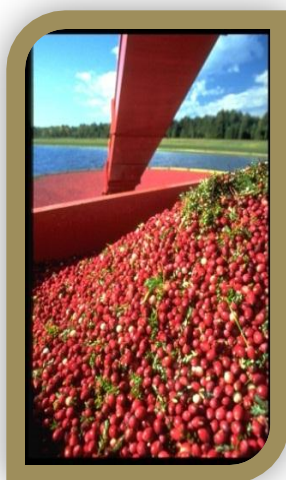
*– Member, Wisconsin
Automobile and Truck Dealers
Association*

Unemployment Insurance

The Small Business Regulatory Review Board (Board) took testimony from the Department of Workforce Development (DWD) regarding the state's unemployment insurance (UI) regulations. Unemployment regulations have been a persistent concern relayed to the state from employers. Unemployment came up 76 times in the survey to business owners completed for this report. That is one out of every eight responses.

The testimony highlighted recommendations DWD submitted to the Unemployment Insurance Advisory Council (UIAC). The UIAC reviews UI law and makes recommendations to the legislature for consideration.

Unemployment benefits are important and vital to getting individuals back on their feet after losing employment. The administration of this program is also vitally important for the health of our state employers. Common sense changes could improve the reserve fund condition, enhance the integrity of the program, and ensure taxes paid into the fund are used properly.



Tax Impact

Unemployment regulations have a direct impact on job creation and economic growth. The benefits are paid from payroll taxes. If you employ people, or are looking to hire, these taxes are a significant factor employers consider.

Over the last decade, the UI reserve fund, the repository for these taxes and the dispensing of benefits, has gone from a surplus to a deficit. This has been brought on by the recession, but also because of changes in the UI program.

In 2012, the UI reserve fund opened with a \$1.2 billion deficit¹². Because of the deficit and money borrowed from the federal government to cover loans to pay benefits during the recession, employers are now paying an assessment to cover the interest on this debt. Employers paid \$42.3 million in 2011 toward this assessment and are projected to pay \$35.6 million in 2012¹³. The assessment is not expected to go away until 2014.

Not only are employers being charged this assessment, they also lose a portion of the Federal Unemployment Tax Act (FUTA) credit on wages every year the state owes the federal government for its loan to pay unemployment benefits. The loss equated to a \$47 million reduction in the credit to employers in 2012. The loss of the credit is expected to take place until 2014. It increases 0.3% each year the federal loan is outstanding.

Program Integrity

In 2011, there were roughly 37,000 fraudulent determinations of UI¹⁴. In 2010, this equated to \$37 million in fraudulent payments and \$41.4 million in overpayment errors¹⁵. Interestingly, under current law if an individual receives a payment in error it cannot be recovered by DWD in some instances. However, if an employer makes a mistake the department can recover regardless.

Reducing fraud in the program is important, but regulatory changes are needed as well. The regulations for unemployment insurance work-search requirements have not been substantially changed since 1984¹⁶. In Wisconsin, claimants are required to perform two work searches per week. However, waivers to this requirement are available to certain claimants. Currently, half of all claimants are exempt from having to actively look for work¹⁷.

¹² Department of Workforce Development SBRRB Presentation, Georgia Maxwell, October 10, 2012

¹³ Department of Workforce Development, Unemployment News and Information. Available at: <http://dwd.wisconsin.gov/ui/>

¹⁴ Ibid.

¹⁵ Governor's Commission on Waste, Fraud, and Abuse Final Report

¹⁶ Department of Workforce Development Memo to the Special Cabinet on Workforce Development, January 5, 2012

¹⁷ Ibid.

Regulatory Changes

During DWD's testimony to the Board, the department outlined the fiscal and regulatory issues related to UI. DWD shared with the board its recommended regulatory changes given to the UIAC which were based on employer concerns and the need to achieve UI reserve solvency. The DWD suggestions



aim to reform UI and move closer to solvency while continuing to provide a vital benefit to eligible claimants at the same time instilling needed program integrity. These recommendations were supported by the board. The recommendations aimed to address the following:

"Unemployment rules are unfair. We cannot fire for cause without having to pay unemployment. WE have employees fired for verified theft or other infractions who still receive unemployment compensation. Sets a very bad precedent for the other staff members."

Wisconsin Veterinarian

- Under federal requirements, proof of searches is required. Under state benefits, documentation limited to eight weeks can be requested by the state. However, weekly certification is done by the claimant but no documentation is required unless requested by the state.
- Under Wisconsin law, a person on UI can refuse work and still receive benefits in certain circumstances¹⁸. Wisconsin's standards are broader than federal standards. Under federal law, a person can refuse work if they have an illness, there are distance issues, religious objections, physical limitations, or they are participating in training. Under state law, the determination is subjective and much more open ended depending on DWD's determination.

- Wisconsin currently has 18 quit exceptions that allow workers to quit a job and still receive benefits¹⁹. In the Midwest, the state with the next highest number of exceptions is Minnesota, with nine. Wisconsin's exceptions range from quitting for medical reasons to locating to a new area with a spouse. Many of these are necessary and common sense. Other changes could reduce the cost to the UI reserve and bring Wisconsin in line with other state rules.

"Unemployment compensation needs serious training in common sense. Had an employee who was terminated for not showing up for work for several days. He was granted unemployment benefits because he wasn't told that if he missed work he would be fired."

Restaurant Owner



Conclusion

Unemployment benefits are important and vital to getting individuals back on their feet after losing employment. The administration of this program is also vitally important for the health of our state employers. Common sense changes could improve the reserve fund condition, enhance the integrity of the program, and ensure taxes paid into the fund are used properly.

The Board voted to recommend work searches increase from two to four per week. This change could occur via rule. However, other DWD suggestions need statutory changes to go into effect. The Board approved a resolution mentioning UI included in appendix B.

¹⁸ Ibid.

¹⁹ Ibid.



One-Stop Business Portal

*“Have all of the forms
we need to fill out in one
place; online. That
would help speed the
process for small
business.”*

– Wisconsin Lodge Owner

One-Stop Business Registration Portal

New business owners often find compliance with state agencies confusing, complex and overly burdensome. It is important that Wisconsin's regulating agencies take a page from the book of business and use innovation to overcome challenges, provide better service, and improve relationships with the business community. The "Wisconsin One-stop Business Portal" could be a part of the solution.

Think of this portal as the equivalent of a private vendor software program used to file your taxes, but instead for business registration in the state. Businesses would no longer have to register separately with the Department of Workforce Development, Department of Revenue and Department of Financial Institutions among other potential agencies. This e-Government program could allow businesses to register for

unemployment insurance, workers compensation and taxation, and complete corporation registration, among other state and local registrations in one centralized location.

Not only could the program streamline the registration process, it could also provide easier access to resources available across all state

agencies. Depending on the type, size, and location of the business, it could be directed to local resources and regulations to help ease compliance. Through this one-stop registration, the business owner could be given advice and resources from other state agencies. For example, the business would be directed to the Department of Natural Resources if air permits are needed or the Wisconsin Economic Development Corporation if tax incentives are available, to name just two.

Other states have implemented one-stop business registration portals with tremendous success. Utah began the process of creating a one-stop state portal in 1999. Utah now has more than 1,000 services online

and has saved employers and the state time and money.²⁰ The services include a one-stop business registration portal. The total savings and cost avoidance to Utah over a five-year period was \$61 million for the overall state portal.²¹

Not only does this program save state resources, employers also save valuable time and money at a sensitive period in their development. States must cut red tape for business start-ups in order to cultivate



them. A state must encourage start-up businesses because young businesses grow faster than mature firms do. A recent study found that while startups account for only three percent of total employment, they also accounted for nearly 20 percent of job creation.²²

More recently, Kentucky instituted a one-stop business portal. A Kentucky study stated the amount of time a business had to register with their revenue department was reduced by 75%.²³ The same study identified 12 total states with one-stop business registration portals. This number is growing. That is because these portals are saving businesses valuable time and putting these states at an economic advantage.

This e-Government technology can be used to help businesses and individuals get licensed as well.

²⁰ Center for Public Policy and Administration, The University of Utah, Smarter eGovernment: The Economics of Online Services in Utah

²¹ Ibid.

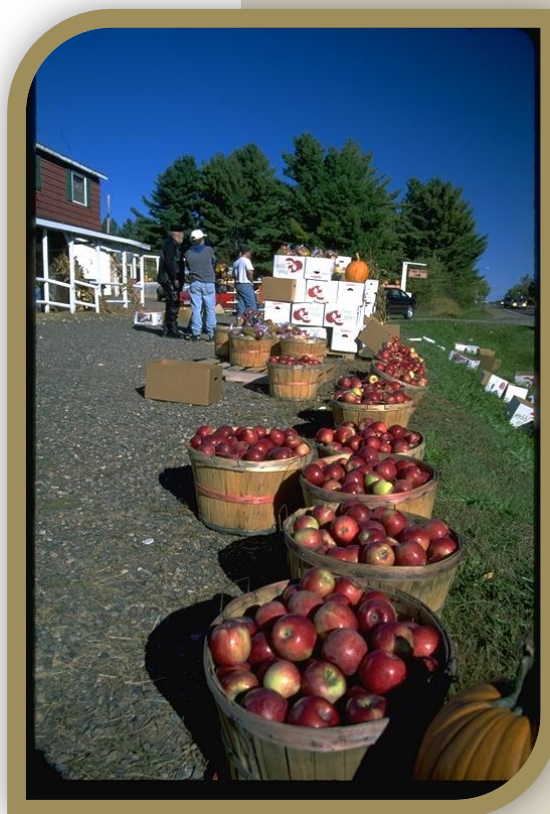
²² *Who Creates Jobs? Small vs. Large vs. Young*, National Bureau of Economic Research, Haltiwanger, Jarmin, Miranda, August 2010

²³ Innovation in Government, The Kentucky Business One Stop Portal Assessment, December 30, 2011

Wisconsin has 12 state agencies with over 800,000 licenses in 330 vocations.²⁴ An e-Tool such as the one-stop business registration portal could help employers navigate state government regulation and get them working more quickly.

This technology can also be completely self-funded. According to the 2012 Wisconsin Statewide Strategic IT Plan, 23 states are self-funded through fees on services.²⁵ The fees are added in consultation with the stakeholders, affected agencies to ensure they are agreeable, and add value to the government service provided. The revenue maintains the service and pays for the start-up costs.

A one-stop business registration portal would streamline government regulations, save employers time and money, and save the state money as well. This is a common sense approach to increasing regulatory compliance and promoting economic growth. Numerous employers in the regulatory review survey mentioned this one-stop registration portal as a priority.



²⁴ Wisconsin Department of Administration Data

²⁵ 2012 Wisconsin Statewide Strategic IT Plan



Conclusion

“Small businesses need to have a voice in the regulatory process. I commend the members of the Small Business Regulatory Review for being that voice and beginning their review of government regulations.”

*– Governor Scott Walker,
March 7, 2012*

Conclusion

From the restaurant owner in Kenosha to the farmer in Rhinelander, Wisconsin's small businesses and entrepreneurs are the impetus behind a strong economy. Therefore, it is imperative that Wisconsin provide a regulatory environment that allows them to thrive.

Job creation and the growth of our state's economy are dependent on a vibrant small business sector. According to recent U.S. census data, 86% of Wisconsin businesses employ fewer than 20 employees. While most of Wisconsin's businesses are small, they are hit the hardest financially by regulation. Small businesses spend 80% more per worker than large employers to comply with government regulation.²⁶ The massive amount of spending per worker makes hiring and investing more difficult.

Regulations are often a necessary part of ensuring the well-being of Wisconsin's citizens. However, it is important that our regulating agencies consider the large impact their rules have on the engine driving Wisconsin's economy. A regulatory system cannot meet



its goals if the regulated are unable to comply. It is important that the regulators and the regulated work together, not as adversaries. According to a recent survey 22% of employers thought reducing regulations would help their business.²⁷ Reducing the burden on small business makes job creation easier.

The results gathered from nearly 600 business owners provided an instrumental look into regulations on the ground level. While ensuring safety and fairness it is important that regulating agencies understand the practical effects these regulations have on employers. The initiative by state agencies, as well as the Governor's Office, shows a desire to keep Wisconsin open for business.



Wisconsin has moved up the CEO Magazine Best States for Business list from 24 to 20. According to the ranking, Wisconsin could do better with more regulatory reform. The Badger State received three out of five stars for taxation and regulations in the survey.

Forbes magazine recently listed its Best States for Business list and regulatory climate was a factor in the rankings. A part of this calculation was Wisconsin's regulatory ranking at which was 30th in the nation. Only Minnesota was lower in the midwest. This report and a continuous review by Wisconsin of its regulations could improve this ranking. In the Forbes article revealing the 2012 Best States For Business it stated, "Last year, Gov. Herbert [of Utah] initiated a review of the state's nearly 2,000 administrative rules. The state eliminated or modified 368 of them that Herbert characterized as 'a drag on the economy'."²⁸ Utah conducted a similar review to Wisconsin's in 2011. Utah is ranked #1 in Forbes and has a regulatory rank of 6th in the nation.

²⁶ Governor Scott Walker, Executive Order #61, February 22, 2012.

²⁷ Wisconsin Manufacturing and Commerce 2013 Economic Outlook Survey. November 2012.

²⁸ Forbes, December 12, 2012

Governor Walker understands the need for reasonable regulation in order to provide for a level playing field for businesses. However, he understands it is equally important that Wisconsin continues to grow and prosper and that unnecessary and overburdensome regulation is unsustainable. This is why Executive Order #61 was aimed at striking a balance between adhering to original protections in the intent of the statute while removing unnecessary hinderances to economic growth.

Many necessary changes were made as a result of the Governor's request. This report has found some areas of Wisconsin's regulatory environment that are successful and effective, however there is always room for improvement. As a result of Governor Walker's request, 218 rule chapters and 307 modifications have been recommended, with 40 up for complete repeal. Additionally, various statutory changes and a handful of organizational changes have been reviewed and discussed by the Small Business Regulatory Review Board.²⁹

This report casts light on Wisconsin's regulatory environment as it exists. It highlights steps Governor Walker has taken to decrease the regulatory burden on small businesses, comprehends results of the agencies rules review, provides suggestions for further improvement and analyzes input provided by businesses.



²⁹ See Appendix D for a Comprehensive Summary of Recommendations



Appendices

Appendix A: Business Associations Contacted

Business Associations Contacted

American Council of Engineering Companies of Wisconsin
Associated General Contractors of Wisconsin, Inc.
Bio Forward, Inc.
Commercial Association of Realtors, Wisconsin
Dairy Business Association
Independent Business Association of Wisconsin
Independent Insurance Alliance of Wisconsin
Metropolitan Milwaukee Association of Commerce
National Federation of Independent Business
Pharmacy Society of Wisconsin
Wisconsin Aggregate Producers
Wisconsin Agribusiness Council
Wisconsin Association of Convention and Visitors Bureaus
Wisconsin Bankers
Wisconsin Builder's Association
Wisconsin Cable Association
Wisconsin Cattlemen's Association
Wisconsin Chiropractic Association
Wisconsin Corn Growers Association
Wisconsin Credit Union League
Wisconsin Dental Association
Wisconsin Economic Development Association
Wisconsin Funeral Directors Association
Wisconsin Grocers Association
Wisconsin Hotel and Lodging Association
Wisconsin Independent Business, Inc.
Wisconsin Industrial Energy Group
Wisconsin Insurance Alliance
Wisconsin Manufacturing and Commerce
Wisconsin Manufacturing Extension Partnership
Wisconsin Motor Carriers Association
Wisconsin Paper Council
Wisconsin Petroleum Marketers & Convenience Store Association
Wisconsin Pork Association
Wisconsin Potato & Vegetable Growers Association
Wisconsin Ready Mixed Concrete Association
Wisconsin Realtors Association
Wisconsin Restaurant Association & Tourism Federation of Wisconsin
Wisconsin Soybean Association
Wisconsin State Cranberry Growers Association
Wisconsin Transportation Builders Association
Wisconsin Utilities Association, Inc.
Wisconsin Veterinary Medical Association

Appendix B: Resolution of the Small Business Regulatory Review Board

Resolution of the Small Business Regulatory Review Board

December 12, 2012

Re: Resolution on Support for Small Businesses

The following resolution of the Small Business Regulatory Review Board (the Board) of the State of Wisconsin is adopted by the Board on the date set forth above, following the required notice and with quorum of the Board pursuant to Chapter 19 of the Wisconsin Statutes:

WHEREAS, small employers are the engine of a strong and vibrant State of Wisconsin economy and unnecessary regulation can have a detrimental impact to small business growth;

WHEREAS, responsible, up-to-date, and accurate administrative code can increase compliance, reduce employer confusion and cost, and protect against unfair business competition;

WHEREAS, the authority of the Board was greatly expanded in Wis. Stat. sec 227.14(2g) by 2011 Wisconsin Act 46, in Wis. Stat. sec 227.30, and enhanced by Executive Order #61 which required a code review by state agencies and requested the Board *“provide a report and analysis of these rules, in a manner similar to Wis. Stat. § 227.30(1), to the Governor’s Office of Regulatory Compliance and the agency with the authority to amend the rules, which details the rules they have identified for modification.”*;

NOW, THEREFORE, THE BOARD:

RESOLVED, support for the work of the Governor Scott Walker administration to review existing state regulations and repeal or modify those that are unneeded or burdensome to employers as long as they do not take away from the public health or welfare;

RESOLVED, support for the creation of a one-stop for business registration and information in the State of Wisconsin;

RESOLVED, support for responsible unemployment insurance program reform that protects benefits of the unemployed while responsibly administering a solvent program without unnecessary spending of vital employer tax dollars;

RESOLVED, support for the promotion of compliance with reasonable and necessary state regulations through an up-to-date and accurate administrative code;

RESOLVED, support for continual submission of agency rule recommendations to the Board, agencies regularly reviewing administrative code for updates and improvements, and an ongoing agency dialogue with the Board aimed at improving the regulatory climate in the State of Wisconsin.

This Resolution shall take effect immediately upon its adoption on December 12, 2012 and be included in the report submitted to the Governor’s Office of Regulatory Compliance.

Appendix C: Rule Chapters/Sections Modified

DATCP
ATCP 1 - Minor Violations by small Businesses
ATCP 55 - State Inspection of Meat Plants to allow interstate rules
ATCP 110 - Home Improvement
ATCP 111 - basement Waterproofing
ATCP 125 - Mobile Home Parks
ACTP 104 - Tobacco Buying and Selling
ATCP 54 - Weather Modification
ATCP 113 - Gasoline Advertising
ATCP 136.01(1) - Ozone Depleting Refrigerant Substitute
DOA
Adm 85 – Rural Hospital Grant Program
OJA 1 – Traffic Stop Data Collection and Analysis
DCF
DCF 37 – Information to Be Provided to Foster Parents
DCF 52 – Residential Care Centers for Children and Youth
DCF 54 – Child-placing Agencies
DCF 57 – Group Homes
DCF 59 – Shelter Care Facilities
DCF 201 - Administration of Child Care Funds
DCF 202 - Child Care Certification
DCF 250 - Family Child Care Centers
DCF 251 – Group Child Care Centers
DCF 252 - Day Camps for Children and Day Care Programs Established by School Boards
DFI - Bkg 41 - Fees and Renewals
DFI - Bkg 47 - Transition to License Systems
DFI - Bkg 73 - Adjustment Service Companies
DFI - Bkg 74 - Collection Agencies
DFI - Bkg 76 - Sales Finance Companies
DFI - WCA 1.241 - Finance Charge for consumer credit transactions
DFI - CCS 6.06 - Bulk Transfer UCC filings
DFI - SEC 7.01 - Fees for copy of report on floppy disk
DFI - CCS 20.03 - Video Service Franchise
DFI - Bkg 46 - Responsible High Cost Mortgage Lending

DFI - WCA 1.65 - Exempt Property; wages
DFI - WCA 1.655 - Exempt property; subsistence allowance
DFI - WCA 1.391 - Restrictions on security interest; proceeds
DHS
DHS 88 – Licensed Adult Family Homes
DHS 89 - Residential Care Apartment Complexes
DHS 124 – Hospital Regulation
DHS 161 – Tanning Facilities
DHS 172 – Safety, Maintenance, and Operation of Public Pools and Water Attractions
DHS 173 – Tattooing and Body Piercing
DHS 175 – Recreational and Educational Camps
DHS 178 - Campgrounds
DHS 195 – Hotels, Motels and Tourist Rooming Houses
DNR
NR 35 - Zones of Infestation of Forest Pests
NR 47.30 - Small Business Administration Tree Planting Program
NR 47.93 - Forestry Research and Development Grants
NR 1.22 - Establishment of Coniferous Plantations
NR 10.12(4)(a), (b) and c - Horicon Intensive Management Zone
NR 60 - Lake Protection Grants
NR 100 - Discharges of Organic and Inorganic Mercury
NR 410.03(3) - Indirect Source Air Permit Fee
NR 543 - State Market Development Priorities for Recycled and Recyclable Materials
NR 555 - Waste Tire Removal and Recovery
NR 710 - Contaminated Site Discovery
NR 19.001(2) - Miscellaneous fur, fish, game and outdoor recreation
NR 546.04 - Target Recycled Content of Newspaper
NR 16 - Captive Wildlife Management
NR 17 - Dog trials and training
NR 19 - Miscellaneous fur, fish, game and outdoor recreation
NR 80 - Use of Pesticides on land and water areas of the state of Wisconsin

NR 102 - Water quality standards for Wisconsin surface waters
NR 104 - Uses and designated standards and secondary values
NR 113 - Servicing septic or holding tanks, pumping chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, privies, or portable restrooms
NR 114 - Certification requirements for waterworks and wastewater treatment plant and septage
NR 122 - Nitrate Removal
NR 125 - State grants for water pollution control facilities
NR 126 - State grants for water pollution control facilities
NR 128 - Point source pollution abatement grant program
NR 173 - Brownfield green space and public facilities grant program
NR 185 - Solid waste management planning criteria
NR 186 - Solid waste management grant program
NR 207 - water quality antidegradation
NR 305 - Time limits for water regulation decisions
NR 351 - Exemptions from water quality certification in nonfederal wetlands
NR 425 - Compliance schedules, delays, exceptions and internal offsets for organic compound emission sources
NR 487 - Clean fuel fleet program
NR 506 - Landfill operational criteria
NR 510 - Pre-feasibility reports for landfills
NR 520 - Solid waste management fees and financial responsibility requirements
NR 526 - Medical waste management
NR 544 - Effective recycling programs
NR 810 - Requirements for the operations and maintenance of public water systems
NR 16 - Captive Wildlife Management
NR 17 - Dog trials and training
OCI
Ins. 2.04 – Standard Risk Rates
Ins. 2.14(4)(g)1 – Life Insurance Disclosure Requirements
Ins. 3.13(c) – Individual Accident and Sickness Insurance
Ins. 3.19 – Group Accident and Sickness Insurance insuring debtors of a creditor
Ins. 4.01(2)(e) – Fire and Allied Lines Insurance
Ins. 5.03(5) – Administrative Actions; Rules of procedure for Contested Cases
Ins. 6.17 – Surplus Lines Insurance

Ins. 6.18 – Taxation of Unauthorized Insurers	Tax 4.12 (3) - Uncollected motor vehicle fueled taxes and repossession	Tax 12.075 - Notice of increased assessment on taxable real estate
Ins. 6.19 – Procurement or Renewal of Insurance From Unauthorized Insurer		
Ins. 6.57 – Appointment of Agents	Tax 4.55 (Note) - Ownership and name changes	Tax 12.08 - Review of equalized value of taxable general property by counties
Ins. 6.77 – Uninsured, Underinsured, and Medical Payments Coverage	Tax 4.65 (Note) - Motor Vehicle fuel tax refunds to vendors and tax deductions for suppliers	Tax 12.10 - Examination of manufacturing property report forms, confidentiality
Ins.6.85 – Right to File a Complaint	Tax 6.02 - Returns for public utilities	Tax 12.40 - Waste Treatment facilities - industrial
Ins. 8.01 – Ins. 8.09 - Employee Welfare Funds, Employee Benefit Plans	Tax 6.40 - Waste treatment facilities - industrial/utility	Tax 12.50 - Exempt solar and wind energy systems (3)(b)
Ins. 50.79 – Annual Audited Financial Reports	Tax 6.40(2)(b) - Waste treatment facilities - industrial/utility	Tax 12.50 - Exempt solar and wind energy systems (4) - Termination
Ins. 51 – Capital Requirements for Insurers	Tax 6.50(4)(b) - Cost Indicators of Value	Tax 13.05(1) - Transfer of taxes, funds, and fees
Ins. 57 – Care management Organizations	Tax 8.001 (Note) - Intoxicating liquor report, tax return, and refund claim forms	Tax 15.03(2)(b) and (c) - imposition of real estate transfer fee
PSC	Tax 8.03(2) (Note) - Wine Collectors	Tax 15.05 (5) - Exemption from fee
PSC 8.07(7) and (11) Telecommunications	Tax 8.11 - Reports	Tax 16.04 (2) - Schedules
PSC 100.01 Telecommunications	Tax 8.24 - Reciprocal Interstate shipments of wine	Tax 16.06(4) (Note 1) - Compliance
PSC 102.01 Telecommunications	Tax 9.001(2)(b) 1 (note) - Cigarette and tobacco products report, tax return, and refund claim form	Tax 18 Subchapter I - Assessment of Agricultural Property in 1996 and 1997
PSC 104.02(3) Telecommunications	Tax 9.19 (title) - Fuson machine and stamps	Tax 18 Subchapter II - Assessment of Agricultural Property in 1998 and Thereafter
PSC 162 Telecommunications	Tax 9.19(1) and (2) - Fuson machines and stamps	Tax 18.04 - Purpose
PSC 163 Telecommunications	Tax 9.21(3) - Shipments to retailers	Tax 18.05(1)(a) - Definitions
PSC 164 Telecommunications	Tax 9.26 (1) - Trade or transfer or unstamped cigarettes	Tax 18.07 (2) - Use-value
PSC 166 Telecommunications	Tax 9.47 (4) - Invoicing of sales including exchanges of cigarettes	Tax 18.08 - Assessment of agricultural land
PSC 167 Telecommunications	Tax 9.51 (1) - Samples	Tax 19.03 (1)(c) - general
PSC 169 Telecommunications	Tax 9.68 (3) (note) - Ownership and name changes	Tax 61.08(11)(h) - Sale of tickets
PSC 174 Telecommunications	Tax 9.70(3) (Examples 1 and 2)	Tax 61.08(11)(k) - Sale of tickets
PSC 165 Telecommunications	Tax 11.04 (1) – State Authorities	Tax 61.08(13) - retailer responsibility for tickets
PSC 168 Telecommunications	Tax 11.05 (4)(a) - State Authorities	DSPS
PSC 171 Telecommunications	Tax 11.49 (2)(b) - State Authorities	SPS 1.08(2) - Administrative procedure for licensure denial appeal process
PSC 113 sub. IX Meter retention	Tax 11.70 (2) (e) - Taxable Sales	SPS 2.10(1) - Administrative procedure for licensure denial appeal process
PSC 118 Renewable energy credits	Tax 12.05 (b) and (c) - Temporary assessor certification	SPS 3 - Appendix 1 - Administrative Injunctions
DOR	Tax 12.06 - Duties of assessors	SPS 8.03(3) - Findings before issuance of an administrative warning
Tax 1.11(4)(d) - Requirements for Examination of Returns	Tax 12.065 (1)(c) - continuing education requirements for recertification of assessors and assessment personnel	SPS 32 - Private detective and agency license renewal and reporting requirements
Tax 2.085(2) - Claim for refund on behalf of a deceased taxpayer	Tax 12.065 (2)(b) - Assessors	SPS 32.04 - Private detective and agency license renewal and reporting requirements
Tax 2.50(1) - Apportionment of apportionable income of interstate public utilities	Tax 12.065(6) - Address	
Tax 2.97 - Earned income, credit eligibility	Tax 12.07 (1) and (2) Assessment Districts. (1) Counties and (2) Municipalities	
Tax 2.98 (1)(b) - Disaster Area losses		
Tax 2.98 (note 2) - Disaster area losses		
Tax 4.05(1) Taxicabs		
Tax 4.12 (2) - Uncollected motor vehicle fuel taxes and repossessions		

SPS 34 - Private Detectives permitting for carrying weapons	Opt 5.02(4) - Electronic Lens Prescriptions	Trans 215.07(2)(d) – Local High-Cost Bridge Project
SPS 34.01(1)(h) - General conditions relating to carrying a firearm	Phar 7.01(2) - Delivery of Prescription drugs to patients	Trans 215.08(1) - Local High-Cost Bridge Project
SPS 60 – 65 - Regulations of Barbers	VET 1-6 – Licensure, Temporary Permits and Examination	Trans 215.08(2) - Local High-Cost Bridge Project
SPS 84.04 - Course Requirements for Certified General Appraiser	N 1.04 - Nursing School Success Rate	Trans 215.10 - Local High-Cost Bridge Project
SPS 382.20(2) - Commercial Plumbing Plan Review	N 1.05 – Nursing School Success Rate	Trans 257 – Pole and Pipe Transportation Permits
SPS 192 – 196 - Mixed Martial Arts	PSY 2 – Applicant Appearance	Trans 303.03(4) – Equipment Standards for Special Vehicles
SPS 305.94 - Journeyman Plumber Restricted	DOT	Trans 309.02(1) – Ambulance Inspection
SPS 34.01 - Firearms Proficiency Certification	Trans 131.02(38) – Motor Vehicle Inspection and Maintenance Program	Trans 312 – Weigh Station Stopping Requirements
SPS 34.03 - Firearms Proficiency certification	Trans 131.02(39)	Trans 205.02(5) – County Trunk Highway Standards
A-E 7 - Land Surveyor Practice Conduct	Trans 131.03(15)(a) – Motor Vehicle Inspection and Maintenance Program	DVA
A-E 8 - Professional Conduct and Licensure of Architects, Land surveyors	Trans 131.11(3)(b)– Motor Vehicle Inspection and Maintenance Program	VA 1.11 – Duties and responsibilities of the secretary
A-E 10 - Land Surveyor Practice Conduct	Trans 131.03(11)(L)- Inspection Prohibited	VA 5.03 – Director, Duties, and Responsibilities
A-E 9 - Professional Conduct and Licensure of Architects Land Surveyors	Trans 133.06(3)	VA 6.01 – Clothing and Comfort Items
Phar 1 - Name of examination and accreditation organization	Trans 133.02(2) – Definition	VA 6.02
Phar 7 - Name of examination and accreditation organization	Trans 133.04(2)(h) – Application	VA 6.05 – Disciplinary Orders, Review and Appeal
Phar 16 - Name of examination and accreditation organization	Trans 133.05(1) – Authorization Code	VA 6.06 – Resident Employee Policy
Phar 7.04(1)(e) - Secured Institutional Health Care Definition	Trans 133.05(2)	VA 7.05 - Administration
Phar 7 - Name of examination and accreditation organization	Trans 133.05(3)	VA 8.02 – Application, report and eligibility
Phar 8 - Electronic Prescription for Schedule II Controlled Substances	Trans 133.09(3)	VA 8.04 – Revision of Standards
Phar 9 - Electronic Prescription for Schedule II Controlled Substances	Trans 133.08 – Telephone Authorization for quarterly or Consecutive Monthly Registrations	VA 9.02 – Application, eligibility, entitlement and restrictions
VE 1.02 - Definitions	Trans 133.06 – Assessing Late fees	VA 9.04 – Notification of withdrawal
VE 7 - Training and Continuing Education for Pesticide Use	Trans 133.04(1) – Telephone application requirements	VA 9.05 – Evidence of Qualifying Service
VE 9 - Training and Continuing Education for Pesticide Use	Trans 138.05(3) – Auction Dealers	VA – 14.02 – Interment fees and assessments
VE 10 - Training and continuing Education of Pesticide Use	Trans 140.022(2) – Minimum Security	DWD
HAS 6.18 - Deceptive Advertising	140.09(2) – Table. Bond or Letter of credit required of dealers	DWD 82 - Mining Damage Claims
PSY 4.02 - Continuing education	Trans 140.07(3)(b) – Motor vehicle dealer eligibility and bond claim requirements	DWD 805 - Allowable Costs under the Job Training Partnership Act
Cosmetology Code - Entire Code	Trans 142.07(5)(c) – Recreational Vehicle Dealer Trade Practices, Facilities and Records	DWD 811 - Performance-based contracting
BC 6 - Apprentice Supervision	Trans 144.05 – Transition Period	DWD 816 - Dislocated worker program
REEB 1 - Records Retention	Trans 144.04 – License and registration place fees	DWD 820 - Employment and training assistance for dislocated workers
REEB 16 - Use of Approved Forms, Legal Advice	Trans 156.04(c) - Automated Processing Partner	DWD 830 - Wisconsin job opportunity business subsidy program
REEB 18 - Real Estate Trust Accounts	Trans 156.06(3) - Automated Processing Partner	WEM
A-E 2.02 - Registration Stats	Trans 175.03 - Registration	WEM 1 - Reporting System
MED 1.02 - Diploma Copies	Trans 177.10 – Motor Carriers	WEM 2 - Inspectors of Hazardous Materials Facilities
	Trans 196.04(3) – Special Handling Service Fee	WEM 7 - State Disaster Fund
	Trans 196.04(4) – Special Department Telephone Fee	
	Trans 196.04(2)(b) – Special handling services	

Appendix D: Comprehensive Summary of Recommendations

Act 21 Enhancements

Recommendations:

1. Streamline the process for cleaning up the Administrative Code by providing an off ramp for obsolete, duplicative, unnecessary, burdensome, or superseded rules;
2. Alter the rulemaking process for modified scope statements by allowing certain minimal modifications to be approved without the agency having to start over in the rulemaking process;
3. Require a sunset period on all guidance documents to keep rulemaking out of guidance;
4. Post guidance documents online with a 30 day review;
5. Allow standing committees and the Joint Committee on Review of Administrative Rules to review rules concurrently;
6. Allow for the electronic publication and submission of rules as well as remove the requirement that rules be sent by registered mail and instead allow for certified mail.

Agency Rules Review

Recommendations:

1. Introduce a bill bundling these recommended rule changes to expedite the process for repeal or modification of the report rules;
2. Enact legislation similar to Minnesota Chapter 14.05 requiring agencies to review their rules for obsolete, superseded or unnecessary code annually and give the option of bundling the rules into a bill for the legislature to review;
3. Support the continual submission of agency rule reports and recommendations resulting from E.O. #61 to the Small Business Regulatory Review Board.

One-Stop Business Registration Portal

Recommendation:

1. Create a “One-Stop Business Registration and Information Portal” in the State of Wisconsin that allows new business to register with multiple agencies instantaneously and provide relevant information about licensing and compliance.

Unemployment Insurance Reform

Recommendation:

1. Implement responsible unemployment insurance program reform that protects benefits of the unemployed while responsibly administering a solvent program without unnecessary spending of vital employer tax dollars.

Legislative Rule Review

Recommendation:

1. The Legislature may want to begin a more in-depth review of administrative code with rules listed in appendix E. These were suggested rules and rule subjects from employers in response to the survey conducted for this report. Some suggestions include statutory changes as well as rules drafted to comply with federal law.

Appendix E: Survey Respondent Recommendations

Agency	Area of Regulation	Authority	Rule Chapter (if applicable)	Respondent Input
DATCP				
	Animal Diseases and Movement		ATCP 10	We dealt with the Department of Agriculture regarding a possible TB outbreak. The procedures and rules regarding this were outdated and completely insane. The State's vets were not accessible and completely ignorant of what today's dairy industry looks like and what their needs are. The farm involved with this outbreak was forced to cull many cows and suffered a huge financial loss. The final outcome was no animals were positive and this answer could have been solved easily with reasonable procedures.
	Food Processing Facility Registration Fees		ATCP 70.03	Food Processing Facility Registration Fees are unnecessarily burdensome
				One of the staff on duty must be CPR certified. Reason (per DATCP) safety of members. My strongest competitors are 24/7 clubs. No one is on duty—thereby saving payroll. According to DATCP the rule/reg was written long before any thought there wouldn't be anyone on duty.
				We must have our members resign their contracts every 2 years. Reason (per DATCP) there are clubs in Wisconsin who have per their contracts the ability to raise the dues and DATCP doesn't think members are smart enough to know how much is being drafted from their accounts ETF. Our contracts clearly state "Member may continue to maintain this membership, at the above monthly rate for the life of the Member or the facility."
				Any monies over \$100 collected must be put in escrow or you must purchase a bond. Recently DATCP ruled our NON-REFUNDABLE sign up fee must be included in the make up of the \$100. Our first month's dues are only \$34. I have requested on several occasions a ruling from DATCP as to when I can transfer the sign up monies out of escrow. Because I can not get a definitive answer I lose up to \$150 on every sign up to keep the monies collected under the \$100 limit. Reason: in case a club folds the members would have a greater chance of receiving a refund for any prepaid dues.
			ATCP 110	Ag 110 is the most business unfriendly rule - it is entirely skewed toward the consumer, applies only to remodeling jobs and is impossible to comply with.
DHS				
	Fees for X-ray Unit		DHS 157	Fees such as fee for xray units supposedly charged to provide inspection services that are performed once every 8-10 years are unnecessarily burdensome. Also, Corporation fee that seems to exist to only provide money for the state coffers and filling out and paying fees for Workplace regulations that provide info for who knows who.

Lead Abatement		DHS 163	no test for lead levels in paint results in expensive lead abatement that may not be necessary.
Functional Screening for the Disabled		DHS 10	The Functional screening & processes required for the disabled. It is burdensome when a person is not functional & thus unable to answer questions. Many questions are not relevant but are required to be asked and it confuses the disabled.
DFI			
Miscellaneous Investments by Credit Unions		DFI - CU 59	There are conflicts between Wisconsin Consumer Protection Act, the UCC and Federal Law
Investment Authority Parity with Federal Credit Unions		DFI - CU 68	We have been told by our state regulators that the parity is only to the federal rules that were in place in 1984-85 when this state regulation was passed. That means that the changes to the federal regulations regarding investments allowed by (federally chartered) credit unions do not apply to state chartered credit unions.
DNR			
Penalties for low Concrete Strengths		DNR 538	Certain environmental regulations regarding what is required for disturbance of larger sites are unnecessarily burdensome
Air Permitting			Our air permit application took 15+ months to complete and cost over \$30,000. We were doing all the right things and wanted to comply as our business approached emissions thresholds, but no one actually wanted to help us and actually acted as if we weren't to be trusted. Air Regulations - which continually require a diminishing return on cleaner air with higher cost.
Beach Clearing		DNR 109, DNR 345	Only allowing the beach to be cleared so many feet is unnecessarily burdensome
Boiler Stack Emission Standards	Federal		Requiring frequent Boiler Stack emissions tests that are complex, expensive, and non-reproducible -- and then requiring conformance to non-validated test methods, i.e. EPA Test Method 202 is unnecessarily burdensome.
Mercury recovery, radiation enforcement	Federal	NR 666.100(4)(a)	Mercury recovery, radiation enforcement is unnecessarily burdensome
Facility Expansion			DNR requirements that eliminate expansion of facilities
Potable Wells			The state (DNR) recently required potable wells (on dairy farms with 25 or more employees) with between 10 and 20 ppm nitrate to be brought under 10 ppm, or labeled nonpotable and new (deeper) wells to be utilized if available or newly dug. 'Potable' well water is required for drinking by humans (not animals) and also for washing milk handling equipment.
High Capacity Wells			They make rules as they go along without following legislative process procedures. Such as the case with the State Supreme Court on the Lake Beulah decision. The scary thing is that it is being interpreted randomly with no rhyme or reason. The problem in that area is not the same type of conditions that we have here in our area, but the DNR is now imposing new use restrictions and pumpage restrictions on any new wells or previous wells where there are any name changes or new applications which triggers reassessments of the cumulative impact of all wells on contiguous parcels. It is being done without any scientific proof that there is any problems in our area or any other areas of the State. By doing this it would significantly affect our agricultural base throughout our State. The rippling affect would not only

		decrease agricultural products of all kinds but affect the Processing and Canning Industries in our State as well as our suppliers of ag equipment, parts, and input supplies. This would significantly decrease yields and costs to our area farmers and put them out of business. This in turn would be a loss of many, many jobs throughout the ag industry of our State.
Animal Feeding Operations	DNR 243	DNR 243 is unnecessarily burdensome
		NR 243 - the reporting requirements are over and above what is reasonable and necessary.
Reporting Requirements/Nutrient Management Planning	DNR 151, 152, 153	NR 151, 152, 153, - reporting requirements and nutrient management planning has gone from educational and helpful to a computer game played by people who don't understand farming.
Water Gallon Usage on Irrigation Wells	DNR 820	Water gallon usage on irrigation wells is unnecessarily burdensome
Storm Water Prevention Plan	DNR 261.27	The Storm Water Prevention Plan is unnecessarily burdensome
Erosion Control	DNR 216	The DNR's 14 working day requirement for Stormwater erosion is unnecessarily burdensome.
		Not sure if this is a state rule, but in Eau Claire County, 90% of new homes constructed are required to do a second more detailed erosion control plan, called a small site erosion control plan. In many of these building sites, land slope and wetland conditions are not present. For a single-family residential home, the \$255 fee, and other costs incurred for additional paperwork and site requirements, further inhibit the ability for a family to build a new home.
Tire Disposal	DNR 555	Tire disposal for scrap tires. It has become increasingly difficult to dispose of tires...mainly due to the increased regulation to the disposal facility. We are not allowed to keep them onsite, and disposal facilities are not allowed to keep them outside on the ground, we either then need to buy and enclosed trailer which needs to be loaded and unloaded by hand taking a huge amount of time, or we need to be able to leave a trailer at the disposal facility in order for it to be unloaded at their leisure. For a small business with only one driver, this takes our driver out for an entire day, keeping us from hauling revenue generating loads.
DOT		
150 Mile Radius Requirement for Trucking Service Hours	Federal	Certain hours of service rules regarding local CDL holders(drivers within 150 mile radius of base plant, or back at home facility end of shift) are unnecessarily burdensome
Low Concrete Strengths	DOT 404	Certain DOT penalties for low concrete strengths etc. are excessively punitive.
Parking Lot Entrance Limitations		Have you noticed the number of access and entrance limitations there are to businesses placed by the DOT. We are old coots now, but it still infuriates me that we wanted a wider entry to our business parking lot (mind you at our expense), but were told it would not meet regulations. This has caused numerous traffic problems that we tried to explain at its inception. Give the regulators on site the ability to adjust the regulations to common sense.

Maximum Contract Amount	Statutory	DOT 404	Maximum Contract Amount hurt small business because if our overhead rate goes up, we are not paid for the actual cost to perform the tasks in the contract after the project closeout audit. But if the audit shows we invoiced too much due to the approved overhead rate, then we have to PAY BACK the fees to DOT. Why is it only one way? Why can't DOT cover our costs? This is not fair at all and this is why small business can't get ahead in the big business world of DOT.
DBE Program	Statutory		<p>The DBE program helps small businesses start out. It now seems to hinder the growth of smaller businesses due to the lack of DBE involvement required in projects. If there are no DBE requirements, then there are no opportunities. WisDOT only seems to hire the big firms as the primes on projects. It is sad since the staff we laid off all went to work for larger firms because they were so busy.</p> <p>Once a DBE label is placed on your firm, that is all you are, and not worthy of priming any large projects. You only work on DBE related contracts!</p> <p>The WisDOT overachieved the use of DBE firms (Disadvantaged Business Enterprises) by more than double the federal requirements, and much of that work would have been a good fit for our firm with 30 staff members. We support set aside to make sure all businesses have a good opportunity for public contracts. We also believe that we should not be dismissed from 40% of the work in the state because of the color of our skin or the sex of the company ownership. The federal goals are in the 16% range for DBE in Wisconsin yet achievement has approached 40% at times. That means that approximately 25% of the work solicited, we were not eligible for, simply because the WisDOT overachieves.</p> <p>Our firm has consistently been in the top 50 firms providing service to the WisDOT (out of well over 300 annually providing service to the WisDOT), always with high success and meeting all project goals. We continue to work hard to meet all project goals, and even though we consistently succeed on projects, we can never seem to grow our WISCONSIN BASED firm because of practices such as the DBE overachievement.</p>
Salvage Bid Card	Statutory		Perhaps this is more legislative and not strictly D.O.T. but there have been recent attempts to do away with the Salvage Bid Card which allows us to purchase junk vehicles from Salvage Pools at auction. If this bid card is eliminated it could potentially open markets to the general public which will greatly affect our ability to compete in the market place and provide product for our customers. It also has potential to put auto's that could be dangerous to drive back on the roads as well as feeding back into the previous statement about unlicensed dealers and handling environmental waste.
DOR			
State Sales Tax	Statutory	Tax 11.72	<p>reporting, recording and remitting state sales tax on health care products made available to patients. the possibility of middle level providers will only harm my business.</p> <p>The sales tax rules relating to software and similar consulting businesses are still ambiguous. I fear another painful battle with auditors some day, like we did in 2008.</p>

			Having to report and pay sales tax when only very small amount of sales of goods occurs is unnecessarily burdensome. There should be a dollar amount exemption. Perhaps \$2,000? And adjusted for inflation/cost of living.
1099 Form Rules			1099 rule for part time help are unnecessarily burdensome.
Beer and Liquor Permitting			Beer and Liquor Permitting paperwork that is completed yearly should not have to be filed out from scratch. If there are no changes all you should have to do is sign a sheet that all conditions and officers have not changed.
DSPS			
Automated Dispensing		Phar 7.09(1)(b)	PHAR 7.09 (1) (b) must be updated to include other types of facilities wishing to utilize Automated Dispensing.
Backflow Prevention		SPS 382	The backflow prevention on every water line in the office. Why not have one backflow prevention on the entire water system. This is added expense because we need to have each one tested once per year. To my knowledge backflow prevention is not required on private homes, and I see the risk of "contamination" being just as high or higher in a private residence as in a business. New plumbing rules for dental offices are terrible. Huge cost to replace anti-back flow valves with new and require expensive yearly monitoring
Wind Bracing			Wind Bracing rules are unnecessarily burdensome.
Construction Inspectors		SPS 305	Increase inspectors for the construction agency. Too many people out there doing work they shouldn't be. Increase business license fees and use that money for additional inspectors. NOT to build roads.
Underground Tank Systems		SPS 310	We are a brand new building, pumps etc and yet we must have an underground tank system functionality verification done every year at a cost of anywhere from 700.00 to 1500. This is something that could be done every 3 yrs until the 9th year and then go every 2 years until the 16th year and then every year. This is a big expense to incur every year on top of everything else.
Wisconsin Prescription Drug Monitoring	Statutory	Phar 18	Repeal the Applicability of Wisconsin's Prescription Drug Monitoring Rule (Phar 18) for Veterinarians: Next year, Wisconsin's Prescription Drug Monitoring Rule (PDMP), which is found in Wis. Admin. Code section Phar 18, will go into effect. The WVMA worked to get amendments to the rule that would help Wisconsin veterinarians comply, but it is not good enough. We need Wisconsin's PDMP rule (Phar 18) repealed for Wisconsin veterinarians. The PDMP has the potential to significantly burden Wisconsin veterinary business through its onerous reporting requirements. In addition, the information collected, which is aimed at curbing human drug abuse, is unlikely to be useful in achieving that goal.
Broker's Commission Lien Laws			Broker's commission lien laws should be much simpler.
DWD			
Family and Medical Leave Act		Statutory	Conflict between Wisconsin Family and Medical Leave Act and the federal Family and Medical Leave Act

Unemployment Insurance	Statutory	Unemployment Insurance practices are unfair on the employer and directly impact an employer's unemployment insurance costs
		DWD rules and regulations make me cautious about hiring new people. I have to realize that should that person not work out, I get penalized through unemployment fees. I need two more people, but I haven't hired anybody for those positions in more than two years.
		The unemployment insurance system is technologically backward. The systems are in need of modernization. There is an over-reliance on faxing documents rather than using web based applications. The administrative law judges are testy and truculent. A talent upgrade would improve the decision making.
		UNEMPLOYMENT laws place an unnecessary burden on businesses (particularly small businesses), it has a crushing impact on the morale of hard working citizens and facilitates a culture of entitlement dependent non tax paying people leaving the burden to sky rocket for those who remain to pay taxes.
State Wage and Hour Laws	Statutory	I would encourage a review of the state wage and hour laws. They are in need of an update.
Worker's Compensation	Statutory	I would also look for ways to put more emphasis on workers compensation return to work strategies. This would include vocational evaluation and retraining assistance.
Work Rules Compliance		Complying with some work rules is unnecessarily burdensome.

